REMARKS

The non-final Office Action dated June 22, 2010 has been received and reviewed. Claims 1, 2, 4-15, 18-24, 26-31, and 33-49 are pending in the subject application. Each of claims 1, 18, and 34 has been amended herein. Care has been exercised to introduce no new matter. Applicants respectfully request reconsideration of the present Application in view of the above amendments and the following remarks.

Rejections based on 35 U.S.C. § 103

A) Applicable Authority

Title 35 U.S.C. § 103(a) declares that a patent shall not issue when "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." The Supreme Court in *Graham v. John Deere* counseled that an obviousness determination is made by identifying the scope and content of the prior art, the level of ordinary skill in the prior art, the differences between the claimed invention and prior art references, and secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966).

To support a finding of obviousness, the initial burden is on the Office to establish the clear articulation of the reason(s) why the claimed invention would have been obvious. *See* MPEP § 2142. The analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. *See* MPEP § 2143; *See also KSR v. Teleflex*, 127 S. Ct. 1727 (2007). In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether

the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *See* MPEP § 2141.02(I).

To reach a proper determination of obviousness, the Examiner must step backward in time and into the shoes worn by the hypothetical "person of ordinary skill in the art" when the invention was unknown and just before it was made. In view of all factual information, the Examiner must then determine whether the claimed invention "as a whole" would have been obvious at that time to that person. Knowledge of applicant's disclosure must be put aside in reaching this determination. Impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art. *See* MPEP § 2142.

B) Rejection of Claims 1-2, 8-15, 18-24, 31, 33-43, and 49

Claims 1-2, 8-15, 18-24, 31, 33-43 and 49 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,466,970 to Lee (hereinafter "Lee") in view of U.S. Patent No. 6,879,994 to Matsliach (hereinafter, "Matsliach"). Applicant respectfully submits that the rejection appears to be improper under 35 U.S.C. §102 and have, for purposes of advancing prosecution, addressed the rejection as if it was advanced under 35 U.S.C. §103(a). As a *prima facie* case of obviousness cannot be established based upon Lee in view of Matsliach, Applicants respectfully traverse this rejection, as hereinafter set forth.

Independent Claim 1

Independent claim 1, as amended herein, provides a method for estimating appropriate advertisement inventory. The method comprises obtaining one or more advertisement target market segment criteria from an advertiser for delivering at least one advertisement. The method also comprises generating a target market segment array

corresponding to each of the one or more advertisement target market segment criteria. Each target market segment array includes a plurality of array elements corresponding to a period of time. The method also comprises obtaining an advertisement request from one of a user and a content provider. The advertisement request includes one or more target market data elements. The advertisement request is associated with a time. Additionally, the method comprises upon determining that at least one of the one or more target market data elements corresponds to a particular one of the one or more advertisement target market segment criteria obtained from the advertiser, incrementing a numerical identifier in one or more of the plurality of array elements included in the target market segment array that corresponds to the particular one of the one or more advertisement target market segment criteria, utilizing a second computing process. Further, the method comprises processing a plurality of numerical identifiers incremented in association with the one or more target market segment arrays to determine appropriate advertisement inventory at a particular time. The method also comprises providing the plurality of numerical identifiers and the one or more target market segment arrays to an advertisement processing component. Additionally, the method comprises determining an inventory of advertisements at the processing component based on the plurality of numerical identifiers and the one or more target market segment arrays.

In contrast, Lee provides methods of collecting and analyzing information of requestors who have interacted with a webpage. *See Lee*, col. 3, line 66–col. 4, line 4. In particular, Lee accesses metadata comprising logged information of requestors who have accessed webpages. *See id.* at col. 4, ll. 5-19. However, Lee fails to disclose any limitations relating to determining inventories of advertisements. In fact, the portion of Lee cited in the office action for determining payload inventory does not relate at all to providing advertisements,

but rather relates to collecting information associated with users who access webpages. *See id.* at col. 6, ll. 15-34. Further, the rest of Lee also fails to disclose limitations related to determining inventories of advertisements. Accordingly, Lee fails to disclose, "providing the plurality of numerical identifiers and the one or more target market segment arrays to an advertisement processing component" and "determining . . . an inventory of advertisements at the processing component based on the plurality of numerical identifiers and the one or more target market segment arrays," as recited in amended independent claim 1.

Further, Matsliach fails to cure the deficiencies of Lee. Rather, Matsliach provides methods of facilitating communications between users. *See Matsliach,* Abstract. However, Matsliach completely fails to disclose methods of determining inventories of advertisements. Accordingly, as with Lee, Matsliach completely fails to disclose determining inventories of advertisements based on target market segment arrays. As such, Matsliach fails to disclose "providing the plurality of numerical identifiers and the one or more target market segment arrays to an advertisement processing component" and "determining . . . an inventory of advertisements at the processing component based on the plurality of numerical identifiers and the one or more target market segment arrays," as recited in amended independent claim 1.

For at least the above-cited reasons, it is respectfully submitted that Lee in view of Matsliach fails to describe each and every element as set forth in amended independent claim 1. As such, Applicants respectfully submit that a *prima facie* case of obviousness of independent claim 1 cannot be established based upon Lee in view of Matsliach. As such, independent claim 1, as amended, overcomes the 35 U.S.C. § 103(a) rejection thereof. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of independent claim 1.

Dependent claims 2 and 8-15 depend, either directly or indirectly, from independent claim 1 and, accordingly, it is respectfully submitted that these claims are patentable over Lee in view of Matsliach for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 103(a) rejections of these claims is respectfully requested as well. Claims 1, 2, and 8-15 are believed to be in condition for allowance and such favorable action is respectfully requested.

Independent Claim 18

Independent claim 18, as amended herein, provides a computerized advertisement delivery system for processing advertisement requests, the advertisement requests each being associated with one or more target market data elements. The system comprises an advertisement client component operable to obtain one or more advertisement target market segment criteria from an advertiser for delivering at least one advertisement and generate a target market segment array corresponding to each of the one or more advertisement target market segment criteria. Each target market segment array includes a plurality of array elements, each array element corresponding to a period of time. The advertisement client component further operable to obtain an advertisement request from one of a user and a content provider. The advertisement request includes one or more target market data elements, and increment a numerical identifier in one or more of the plurality of array elements corresponding to a time associated with the advertisement request.

The system also comprises an advertisement processing component operable to parse an advertisement associated with the advertisement request and estimate available advertisement inventory based on the target market segment array corresponding to each of the

one or more advertisement target market segment criteria for delivering the at least one advertisement. Additionally, the system comprises an advertisement manager component operable to obtain atomic market segment data by evaluating the one or more advertisement target market segment criteria using the target market segment arrays and to process the atomic market segment data for at least one of capacity planning and inventory management.

In contrast, Lee provides an aggregation component for collecting and analyzing information of requestors who have interacted with a webpage. *See Lee* at col. 6, ll. 15-34. In particular, Lee accesses metadata comprising logged information of requestors who have accessed webpages. *See id.* at col. 4, ll. 5-19. However, Lee fails to disclose any limitations relating to determining inventories of advertisements. Further, the rest of the Lee reference also fails to disclose limitations related to determining a component that estimates advertisement inventory. Accordingly, Lee fails to disclose, "an advertisement processing component operable to parse an advertisement associated with the advertisement request and estimate available advertisement inventory based on the target market segment array corresponding to each of the one or more advertisement target market segment criteria for delivering the at least one advertisement," as recited in amended independent claim 18.

Further, Matsliach fails to cure the deficiencies of Lee. Rather, Matsliach provides systems for facilitating communications between users. *See Matsliach* at col. 11, ll. 56-64. However, Matsliach completely fails to disclose a component that determines inventories of advertisements. Accordingly, as with Lee, Matsliach completely fails to disclose claimed limitations of the present invention. As such, Matsliach fails to disclose "an advertisement processing component operable to parse an advertisement associated with the advertisement request and estimate available advertisement inventory based on the target market segment array

corresponding to each of the one or more advertisement target market segment criteria for delivering the at least one advertisement," as recited in amended independent claim 18.

For at least the above-cited reasons, it is respectfully submitted that Lee in view of Matsliach fails to describe each and every element as set forth in amended independent claim 18. As such, Applicants respectfully submit that a *prima facie* case of obviousness of independent claim 18 cannot be established based upon Lee in view of Matsliach. As such, independent claim 18, as amended, overcomes the 35 U.S.C. § 103(a) rejection thereof. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of independent claim 18.

Dependent claims 19-24, 31, and 33 depend, either directly or indirectly, from independent claim 18 and, accordingly, it is respectfully submitted that these claims are patentable over Lee in view of Matsliach for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 103(a) rejections of these claims is respectfully requested as well. Claims 18-24, 31, and 33 are believed to be in condition for allowance and such favorable action is respectfully requested.

Independent Claim 34

Independent claim 34, as amended herein, provides computer-storage medium that execute a method for estimating available advertisement inventory. The computer-storage media comprise a payload processing component operable to obtain one or more advertisement target market segment criteria corresponding to an advertisement request and generate one or more target market segment arrays corresponding to each advertisement target market segment criterion. Each target market segment array includes a plurality of array elements corresponding

to periods of time. The payload processing component is further operable to obtain an advertisement request associated with a time, the advertisement request including one or more target market data elements. Additionally, the payload processing component is further operable to increment a numerical identifier in the plurality of array elements corresponding to the time associated with the advertisement request. The computer-storage media also comprise a payload manager, the payload manager operable to evaluate the one or more advertisement target market segment criteria using the one or more target market segment arrays and to process data within the one or more target market segment arrays to estimate available advertisement inventory.

In contrast, Lee provides methods of collecting and analyzing information of requestors who have interacted with a webpage. *See Lee* at col. 3, line 66-67 – col. 4, line 4. In particular, Lee accesses metadata comprising logged information of requestors who have accessed web pages. *See id.* at col. 4, ll. 19. However, Lee fails to disclose any limitations relating to determining advertisement inventories to present to users. In fact, the portion of Lee cited in the office action for determining payload inventory does not relate at all to providing advertisements, but rather relates to collecting information associated with users who access webpages. *See id.* at col.6, ll. 15-34. Further, the rest of the Lee reference also fails to disclose limitations related to determining payload inventory to present to users. Accordingly, Lee fails to disclose, "a payload manager, the payload manager operable to evaluate the one or more advertisement target market segment criteria using the one or more target market segment arrays and to process data within the one or more target market segment arrays to estimate available advertisement inventory," as recited in amended independent claim 34.

Further, Matsliach fails to cure the deficiencies of Lee. Rather, Matsliach provides methods of facilitating communications between users. *See Matsliach* at Abstract.

However, Matsliach completely fails to disclose methods of determining payload inventories to users. Accordingly, as with Lee, Matsliach completely fails to disclose claimed limitations of the present invention. As such, Matsliach fails to disclose "a payload manager, the payload manager operable to evaluate the one or more advertisement target market segment criteria using the one or more target market segment arrays and to process data within the one or more target market segment arrays to estimate available advertisement inventory," as recited in amended independent claim 34.

For at least the above-cited reasons, it is respectfully submitted that Lee in view of Matsliach fails to describe each and every element as set forth in amended independent claim 34. As such, Applicants respectfully submit that a *prima facie* case of obviousness of independent claim 34 cannot be established based upon Lee in view of Matsliach. As such, independent claim 34, as amended, overcomes the 35 U.S.C. § 103(a) rejection thereof. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of independent claim 34.

Dependent claims 35-43 and 49 depend, either directly or indirectly, from independent claim 34 and, accordingly, it is respectfully submitted that these claims are patentable over Lee in view of Matsliach for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 103(a) rejections of these claims is respectfully requested as well. Claims 34-43 and 49 are believed to be in condition for allowance and such favorable action is respectfully requested.

C) Rejection of Claims 4-7, 26-30, and 44-48

Claims 4-7, 26-30, and 44-48 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Lee in view of Matsliach further in view of U.S. Patent No. 6,654,725 to Langheinrich (hereinafter "Langheinrich"). Applicant respectfully submits that the rejection appears to be improper under 35 U.S.C. §102 and have, for purposes of advancing prosecution, addressed the rejection as if it was advanced under 35 U.S.C. §103(a). As a *prima facie* case of obviousness cannot be established based upon the asserted combination of references, Applicants respectfully traverse the rejection, as hereinafter set forth.

Dependent claims 4-7, 26-30, and 44-48 depend, either directly or indirectly, from independent claims 1, 18, or 34 and, accordingly, it is respectfully submitted that these claims are patentable over Lee in view of Matsliach for at least the above-cited reasons. Further, it is respectfully submitted that Langheinrich fails to cure the deficiencies set forth above with respect to Lee in view of Matsliach, nor is Langheinrich relied upon for teaching such deficiencies. As such, withdrawal of the 35 U.S.C. § 103(a) rejections of this claim is respectfully requested as well. Dependent claims 4-7, 26-30, and 44-48 are believed to be in condition for allowance and such favorable action is respectfully requested.

CONCLUSION

For at least the reasons stated above, it is believed that claims 1, 2, 4-15, 18-24, 26-31, and 33-49 are in condition for allowance. As such, Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or kadsmith@shb.com (such communication via email is herein expressly granted) – to resolve the same.

The fee for a two-month extension of time is submitted herewith by way of electronic payment. It is believed that no additional fee is due. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required, or credit any overpayment, to Deposit Account No. 19-2112, referencing attorney docket number 193645.01/MFCP145676.

Respectfully submitted,

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